

# SANDLER, REIFF, YOUNG & LAMB, P.C.

August 1, 2012

Via E-Mail and First Class Mail

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Federal Election Commission  
999 E Street, N.W.  
Washington D.C. 20463

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FEDERAL ELECTION  
COMMISSION

Re: MUR 6590

Dear Mr. Jordan:

We serve as counsel to the Democratic Party of Ohio and are writing in response to the Commission's letter dated June 14, 2012 regarding MUR 6590 and enclosing a complaint from Mark R. Brown. The complaint alleges that a forum sponsored by the Columbus Metropolitan Club (CMC), during which a member of the press posed questions to the chairmen of the Ohio Democratic Party and the Republican Democratic Party, was actually a presidential debate. The complaint further alleges that the forum did not comply with the Commission's regulations for a properly staged presidential debate because CMC did not invite all possible presidential candidates to attend. Mr. Brown concluded that CMC sponsorship of the forum and posting of a recording on the internet was something of value to presidential candidates Romney and Obama, in violation of the prohibition against corporate contributions, 2 U.S.C. § 441b. Finally, Mr. Brown alleges that "[b]ecause campaign-related speech was delivered by the Ohio Republican Party and Ohio Democratic Party chairs at this almost-hour-long public forum, both the Ohio Republican Party and the Ohio Democratic Party are complicit in the CMC's violation and are equally accountable." Complaint at 11, ¶ 59.

The complaint fails to allege a violation by the Ohio Democratic Party for many reasons. As described in the complaint, the forum was not a debate among Presidential candidates. It was part of CMC's public education forum series that it sponsors every week. The Ohio Democratic Party was not involved in the organization of the forum, invitation list or selection of topics. No candidates were invited or participated in the forum. The Ohio Democratic Party chairman was personally invited, and he merely accepted an invitation to respond to questions on issues and explain the Democratic Party's position on those issues. The Democratic Party of Ohio made no expenditures in connection with the forum and did not receive any contributions. Finally, the chairman's attendance at a forum sponsored by CMC does not make the Ohio Democratic Party responsible for any possible violation by CMC; the Ohio Democratic Party is only accountable for its own actions and not those of the CMC. Moreover, the forum was an educational activity "designed to encourage individuals to vote or to register to vote" exempt from the definition of expenditure. 2 U.S.C. § 431(9)(B)(ii). There is no authority to hold the Democratic Party of Ohio responsible for a violation by CMC, even if there was one. For these reasons, as described

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in more detail below, the Ohio Democratic Party requests that the Commission dismiss this complaint against it and close the file.

### DISCUSSION

1. As the complaint acknowledges, CMC sponsors weekly educational programs related to local, regional and national economic and political events of concern to the citizens of Columbus, Ohio. In the current matter, no candidates were invited to speak. Rather, a local member of the media posed questions to the chairmen of the Ohio Democratic and Republican parties. They only responded to questions and did not make a speech to the audience advocating the election or defeat of any candidate. This was a typical educational activity of the type sponsored by service organizations and non-profit corporations across the country. This was not a debate.

The Commission has explained that "face-to-face appearances or confrontations have historically been an inherent characteristic of candidate debates since the prototypical Lincoln-Douglas Debates in 1858 and, more recently, the presidential debates in 1960, 1976, 1980, and 1984. Although the format and structure of these debates varied from one instance to another, the common element in all of them was a face-to-face confrontation. The Commission's nonpartisan candidate debate regulations were drafted with this historical, traditional concept of candidate debates in mind." AO 1986-37. Here, no candidates were present so this was not a debate.

The Commission has established that the same rules for candidate debates also apply to debates among candidates' representatives and agents. See 11 CFR § 114.4(b) and AO 1996-11. This occurs when candidates are invited to attend but sent an agent in the candidate's place. However, the complaint itself notes that CMC's invitation was to the chairman of the Ohio Democratic Party itself and not to President Obama or his campaign. Thus, there is no indication that President Obama designated the chairman as his representative or agent. The Commission has defined an agent in 11 CFR §§ 109.3 and 300.2(b) as someone who has "actual authority." No actual authority has been alleged in the complaint. Indeed, Mr. Brown could not make such an allegation consistent with the facts cited in the complaint. Rather, in essence, he alleges that the chairman is a representative or agent because he has the same views as President Obama. But as the regulations make clear, merely espousing the same views as a candidate, without the actual authority to speak for the candidate, does not create an agency relationship.

2. If there were any expenditures in connection with the forum, they were not made by the Ohio Democratic Party. As described in the complaint, the chairman of the Ohio Democratic Party provided his personal views in response to questions. Neither he nor the Party provided any funds.

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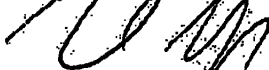
Furthermore, the chairman did not solicit or accept contributions and there is no indication that anyone made a political contribution in connection with the forum.

3. Finally, the complaint alleges that the Ohio Democratic Party is equally responsible for violations by CMC. First, there is no evidence that CMC committed a campaign finance law violation. But even if it did, the complaint offers no authority, because there is none, that the Ohio Democratic Party is responsible for a CMC violation merely because its chairman spoke at a forum sponsored by CMC.

#### CONCLUSION

For all of the above reasons, the Ohio Democratic Party requests that the complaint be dismissed and the case closed.

Respectfully submitted,



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Counsel for the Ohio Democratic Party

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